

MARCUS PERRY,
Petitioner,

v.

PETER A. PEPE JR.,
Respondent.

GORTON, J.

On February 9, 2012, this Court dismissed the habeas petition under 28 U.S.C. § 2254 of Marcus Perry. As explained in the Report and Recommendation adopted by this Court, the petition was a "mixed" petition insofar as two claims contained therein were unexhausted. The Court granted leave to Perry to file a withdrawal of his unexhausted claims and warned that failure to do so would result in dismissal of the petition. When Perry failed to comply with that order, his petition was dismissed. He filed a notice of appeal, but neither this Court nor the First Circuit granted a certificate of appealability. The Court of Appeals' mandate issued on January 7, 2013 (docket entry no. 56).

Perry now seeks relief from judgment on the ground that he has since exhausted the claims that were unexhausted at the time he filed an original petition. The motion is DENIED. If Perry would like this Court to review his newly-exhausted claims for collateral review in this Court, he must file a new petition for

a writ of habeas corpus under 28 U.S.C. § 2254. The Clerk shall send Perry the standard form for filing such a petition.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Dated: 1/28/15